IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1190 OF 2005

IN
Cri.Appln. No. 728/2005

Anwar Hanif Khan ..Applicant.

V/s.

The Appraising Officer, Special Intelligence Investigation Customs Department & Anr. ..Respondents.

Shri Uday P. Warunjikar for the Applicant.
Shri Ejaz Khan for CBI.
Shri A.S.Gadkari, APP for Respondent No.2 -State.

CORAM : A.M.KHANWILKAR, J.
DATED : FEBRUARY 24, 2005

PC :-

1. Heard counsel for the parties.

2. This application is to relax condition No. (a) imposed by this court on the applicant in bail order dated 8th February, 2005. The backdrop in which this application has been filed is that, after the bail order was granted, the applicant furnished surety in the amount of Rs. One Lakh before the lower court. However, the lower court has discarded that surety by observing that the surety does not know the applicant

accused and is therefore, not trustworthy. This reason is recorded in the order dated 16th February, 2005. During the pendency of this application, the applicant caused the surety to appear in this court who in turn made statement before this court that he knows the applicant personally. Besides making that statement, the surety has filed affidavit to that effect, sworn on 14th February, 2005. Counsel for the respondent fairly submits that in view of the said affidavit filed, the reason recorded by the court below cannot stand.

3. In the circumstances, the lower court has to proceed to accept the stated surety, unless the same cannot be reckoned for any other tangible reasons.

4. Application disposed of in the above terms.

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